

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DENNIS DEWAYNE TRIBBY and  
LINDA LAVINNA TRIBBY,

Plaintiffs,

vs.

BUZ MATTSON and RAY KLEIN, INC.,  
an Oregon Corporation, dba  
PROFESSIONAL CREDIT SERVICE

Defendants.

Civ. No. 07-6187-TC

FINDINGS AND RECOMMENDATION

Coffin, Magistrate Judge:

Before the court is plaintiffs' motion for summary judgment (#9). For the reasons that follow, I recommend that the motion be denied.

Standard

Summary judgment is appropriate where "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). On a motion for summary judgment, all reasonable doubt as to the existence of a genuine issue of fact is resolved against the moving party, Hector v. Wiens, 533 F.2d 429, 432 (9th Cir.

1 1976), and any inferences drawn from the underlying facts are  
2 viewed in the light most favorable to the nonmoving party.  
3 Valadingham v. Bojorguez, 866 F.2d 1135, 1137 (9th Cir. 1989).

4 The initial burden is on the moving party to point out the  
5 absence of any genuine issue of material fact. Once the initial  
6 burden is satisfied, the burden shifts to the opponent to  
7 demonstrate through the production of probative evidence that  
8 there remains an issue of fact to be tried. Celotex Corp. v.  
9 Catrett, 477 U.S. 317, 323 (1986).

10 Rule 56(c) mandates the entry of summary judgment against a  
11 party who fails to make a showing sufficient to establish the  
12 existence of an element essential to that party's case, and on  
13 which that party will bear the burden of proof at trial. In such  
14 a situation, there can be "no genuine issue as to any material  
15 fact," since a complete failure of proof concerning an essential  
16 element of the nonmoving party's case necessarily renders all  
17 other facts immaterial. The moving party is "entitled to a  
18 judgment as a matter of law" because the nonmoving party has  
19 failed to make a sufficient showing on an essential element of  
20 her case with respect to which she has the burden of proof. Id.  
21 at 323-24.

#### 22 Background

23 Plaintiffs are apparently indebted to a number of medical  
24 service providers, which have engaged defendant to collect the  
25 debts. Plaintiffs allege that defendant has violated section  
26 1692g of the FDCPA by failing to provide sufficient verification  
27 of the debt. Plaintiffs move for summary judgment.

28 Plaintiffs allege, and the record demonstrates, that they

1 received a collection letter from defendants on December 18,  
2 2006. Complaint, Exhibit C. Plaintiffs allege that they  
3 requested verification of the debt pursuant to 15 U.S.C. section  
4 1692g. Requests for verification dated November 27, 2006, are  
5 referenced in defendants' December 18 letter; the record does not  
6 contain plaintiffs' previous correspondence or any previous bills  
7 sent by defendants. Rather, the collection notice put at issue  
8 in plaintiffs' motion for summary judgment is the December 18  
9 collection letter.

10 In defendants' December 18 letter, they state that  
11 itemizations validating the debts had been sent to plaintiffs.  
12 That letter also included an itemized list of creditors, amounts  
13 owed, and interest rates. Complaint, Exhibit C. In plaintiffs'  
14 view, defendants' response was inadequate as a matter of law.  
15 Relying solely on a legal dictionary, plaintiffs contend that  
16 verification requires "[c]onfirmation of correctness, truth, or  
17 authenticity by affidavit, oath or deposition." Complaint, 9.

18 In order to prevail on summary judgment, plaintiffs must  
19 establish the absence of any genuine issue of material fact  
20 concerning defendants' alleged failure to provide the proper  
21 validation. Plaintiffs have failed to do so.

22 15 U.S.C. section 1692g(b) states that, upon a request for  
23 verification from the consumer,

24 the debt collector shall cease collection of the  
25 debt, or any disputed portion thereof, until the  
26 debt collector obtains verification of the debt or  
27 a copy of a judgment, or the name and address of  
28 the original creditor, and a copy of such  
verification or judgment, or name and address of  
the original creditor, is mailed to the consumer by  
the debt collector.


1 Emphasis added. In the Ninth Circuit, "verification of a debt  
2 involves nothing more than the debt collector confirming in  
3 writing that the amount being demanded is what the creditor is  
4 claiming is owed." Clark v. Capital Credit & Collection Services,  
5 Inc., 460 F.3d 1162, 1173-74 (9th Cir. 2006) (quoting Chaudhry v.  
6 Gallerizzo, 174 F.3d 394 (4th Cir. 1999)). FDCPA does not impose  
7 any duty upon the debt collector to investigate independently the  
8 validity of the amounts owed. Id. at 1174.

9 Plaintiffs received an itemized list of creditors, debts, and  
10 interest rates on December 18, 2006 (and apparently at earlier  
11 dates). Complaint, Exhibit C. Plaintiffs have failed to  
12 demonstrate that defendants have violated 15 U.S.C. § 1692g by  
13 failing to provide adequate verification of debts pursuant to  
14 their November 27, 2006, request for verification. Rather, the  
15 record suggests compliance.

#### 16 17 Conclusion

18 For the foregoing reasons, plaintiffs' motion for summary  
19 judgment (#9) should be denied.

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21 Dated this 6 day of <sup>NOV.</sup>, 2007.

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24   
25 THOMAS M. COFFIN  
26 United States Magistrate Judge  
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